

Est. 10/1/02

Enforcement-confidential

**Enforcement Considerations - McCormick & Baxter Creosoteing****1) Describe whether the Region has identified any PRPs for this project.**

McCormick & Baxter Creosoteing Company is the only PRP that EPA has identified for the Site. It owned and operated at the site since 1944. In 1988, McCormick & Baxter filed for Chapter 11 bankruptcy, and in 1990, McCormick & Baxter's bankruptcy reorganization was approved. As part of the McCormick's & Baxter's Plan of Reorganization and in satisfaction of environmental claims brought against it, McCormick & Baxter was authorized to pursue environmental insurance recoveries on behalf of its environmental creditors, which included DEQ and EPA. The Reorganization Plan also provided DEQ with a first mortgage security interest, up to \$20 million, in the property as security for repayment of investigation and cleanup costs. McCormick & Baxter eventually recovered approximately \$7 million in insurance recoveries related to the Site that could be distributed to DEQ and EPA. Pursuant to a MOA between EPA and DEQ, EPA received \$2,907,000 of the insurance recovery. EPA placed this amount in a site specific account.

**2) If the Region has previously identified PRPs for this project, then explain why the Region is not ordering the PRP(s) to conduct this project.**

EPA CERCLA based claims against McCormick & Baxter Creosoteing Company were resolved by the McCormick & Baxter Plan of Reorganization. Accordingly, EPA can not seek further relief from McCormick & Baxter and there are no other PRPs.

**3) If the Region has already settled with any of the PRPs, then state whether any of the settlement proceeds were deposited into a CERCLA 122(b)(3) special account. For a site where such a special account has been established, please explain why the Region is requesting Fund monies, rather than using the account monies that are earmarked for future work at this site.**

The current cost estimate for the sediment cap is \$7.5 million, and the current balance (August 2002) of the special account is approximately \$3.1 million. The cost of implementing the sediment cap remedy exceeds the value of the funds available in the site specific account. Therefore, an additional \$4.4 million of fund monies is needed to construct the sediment cap.

**4) Please provide the name of the legal staffer (ORC or otherwise) who is most familiar with the analysis of possible PRP contribution for this project. Has the Region's legal office approved the Fund-lead designation for this project?**

Ted Yackulic is the lead EPA ORC staff person most familiar with the site. The Regional Counsel has approved the Fund-lead designation for the site cleanup.

